

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0534P**

**Gross Income Tax  
Calendar Years 1996**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is a contractor who performed one construction job in Indiana during 1995 and 1996. Taxpayer protests the penalty assessed on an audit completed on June 11, 1999.

Taxpayer failed to segregate high rate and low rate receipts on jobs performed in Indiana.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer requests the department waive its negligence penalty because it was the first construction job in Indiana and it was not aware of the tax laws, especially those pertaining to sub-contractors. Taxpayer further states that the Indiana rules are quite different from its home state.

Taxpayer's audit revealed that it was the primary lump sum contractor for a construction project in Indiana. The taxpayer failed to segregate its construction receipts at the high and low rates that generated the assessment. Adjustments were also made to adjusted gross income for the tax add-back,

minor adjustments to all apportionment factors, and operating loss. Taxpayer also failed to claim additional payment in the amount of \$4,400 on its return.

Taxpayer has not provided reasonable cause to allow the department to waive the negligence penalty. When doing business in Indiana, a taxpayer must make itself aware of the tax laws of this state. Failure to do so is considered negligent.

**FINDING**

Taxpayer's protest is denied.